

REMARKS

Applicants reply to the final Office Action dated April 19, 2010, within two months. Claims 1-3, 5-10 and 12-20 were pending in the application, and the Examiner rejects claims 1-3, 5-10 and 12-20. Applicants cancel claim 8 and 15-17 without prejudice in favor of filing one or more claims disclosing the same subject matter. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by the amendments. Reconsideration of this application is respectfully requested.

In particular, Applicants amend claims 18-20 to substitute "the opening" by --the non-covering portion--, for clarification, based on, for example, paragraph [0078] of the specification and the drawing in Fig. 3.

Applicants also amend claims 1, 5 and 6 to specify the use of the "grasping member" being -for grasping a tubular tissue--, characterize the "edge portion" by --elongated end portion ... being adapted to be inserted into a tube of the tubular tissue for grasping the tubular tissue--, and further specify the use of the "tissue grasping space" --for grasping the tubular tissue--. Support for the amendments can be found at, for example, line 11 of claim 1, line 14 of claim 5, and line 12 of claim 6, and claims 7-10 and 15-17 as currently pending. Accordingly, Applicants assert that such amendments are clearly restrictive in nature and do not introduce un-examined new features in the pending claims.

Applicants amend other claims to conform to the above amendments, to avoid redundancy and inconsistency issues and for proper antecedent basis.

The Examiner rejects claims 18-20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the Examiner asserts that it is unclear if "the opening" recited in claims 18-20 is the same "opening" defined in claims 1, 5 and 6. Applicants respectfully disagree with these rejections, but Applicants amend certain claims (without prejudice or disclaimer) in order to clarify the patentable aspects of certain claims and to expedite prosecution.

Applicants assert that, as claims 18-20 are currently amended to recite "the opening non-covering portion of a rectangular shape is formed by an edge of the covering portion, the elongated piece, and the fixing portion," the claimed embodiment is now clarified and as described at [0078] in the specification which refers to Fig. 3. As such, Applicants assert that this rejection is now moot.

The Examiner next rejects claims 1, 5, 6-10 and 12-20 under 35 USC 102(b) as being anticipated by Kees, Jr. et al., US Patent No. 4,340,061 ("Kees"). Applicants clarify that claims 12-20 were not listed in the original rejection, but Examiner provides rejections later. Applicants respectfully disagree with these rejections, but Applicants amend certain claims (without prejudice or disclaimer) in order to clarify the patentable aspects of certain claims and to expedite prosecution. Moreover, Applicants cancel claims 8 and 15-17, so the rejections of such claims are now moot.

Applicants strongly assert that Kees does not teach a grasping member for "**grasping a tubular tissue**" such as a blood vessel, as recited in currently amended claims. Rather, Kees merely pertains to aneurysm occluding clips in which "*the teeth 32 grip the aneurysm 14 along a line spaced from the blood vessel and engages a portion of the aneurysm which would otherwise be considered useless*" (emphasis added; col. 2, ll. 37-39 and the similar description at col. 2, ll. 42-44). Furthermore, according to Kees, one advantage of the aneurysm clip provided therein is its limited spring pressure which reduces likelihood of injury if said clip is "*inadvertently improperly positioned on an artery*" (emphasis added; col. 2, ll. 51-52).

The Examiner refers to the opposing rounded scallops (30) in the clip of Kees as the corresponding elements of the "recessed portion" and "curved portion" of the claimed invention. However, Applicants assert that one skilled in the art upon reading Kees would not arrange the opposing scallops in the clip to "**form a tissue grasping space for grasping the tubular tissue**" (emphasis added), as recited by the claimed invention, since such arrangement could cause the

spring-operated clip of Kees to "inadvertently improperly positioned on" a tubular blood vessel and result in injury.

The Examiner also asserts that the scallop that is closest to the slot 36 in the aneurysm clip of Kees is an "elongated end portion" corresponding to the end of the edge portion in the claimed invention, and is *capable* of being inserted into a tubular tissue (section 6 at page 8 in the outstanding Office Action). However, even assuming the teachings of Kees as proffered by the Examiner, Applicants still strongly assert that Kees does not disclose an elongated end portion "*being adapted to be inserted into a tube of the tubular tissue for grasping the tubular tissue*", (emphasis added) as recited by the claimed invention.

Dependent claims 7, 9-10, 12-14 and 18-20 variously depend from independent claims 1, 5 and 6, so dependent claims 7, 9-10, 12-14 and 18-20 are differentiated from Kees for the same reasons as set forth above, in addition to their own unique features.

The Examiner next rejects claims 2 and 3 under 35 USC 103(a) as being unpatentable over Kees in view of Mandel et al, US Publication No. 2002/0177863 ("Mandel"). Applicants respectfully traverse these rejections.

As discussed above, Applicants assert that the primary reference Kees fails to disclose or suggest a grasping member having a curved portion opposing a recessed portion to form a tubular vessel grasping space, or an edge portion in a grasping plate which has an elongated end portion adapted to be inserted into a tube of the tubular tissue, as recited by the claims. Applicants also assert that Mandel fails to remedy the deficiencies of Kees.

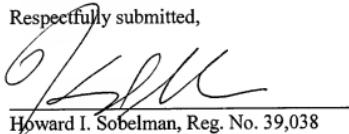
Specifically, Mandel merely relates to a chevron shaped ligating clip which bears little structural resemblance with the claimed invention, or the clip disclosed in Kees (e.g., Figs. 1 and 2 of Mandel). Moreover, it appears that the Examiner has only relied on Mandel for the purported teaching of an antimicrobial and/or antibiotic coating to the clip surfaces, namely the features recited in pending claims 2 and 3. Claims 2 and 3 variously depend from independent claim 1, so Applicants assert that independent claim 1 is differentiated from Kees as set forth above, in addition to their own unique features.

Furthermore, Applicants assert that the claimed invention also attains significant effects over the cited references. Particularly, as one skilled in the art would appreciate, the claimed invention provides multiple ways to safely grasp a tubular tissue, for example: (1) grasping a tubular tissue by inserting an "elongated end portion" of a first grasping plate into said tubular tissue and further

moving the second grasping plate close to the first grasping plate to grasp the tissue more stably (e.g., Example 4 at [00141] in the specification and Figure 11); and (2) using the retaining portion of the first grasping plate and the covering portion of the second grasping plate to grasp a tubular tissue at one point, and using the tissue grasping space formed by the recessed portion of the first grasping plate and the curved portion of the second grasping plate at another point, to stably grape the tubular tissue (e.g., Example 3 at [00139] in the specification and Figure 10). By contrast, neither Kees, Mandel, nor any combination thereof, teaches a surgical holder for grasping a tubular tissue in multiple ways for different purposes.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



Howard I. Sobelman, Reg. No. 39,038

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SNELL & WILMER L.L.P.
400 E. Van Buren / One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228 / Fax: 602-382-6070
Email: hsobelman@swlaw.com